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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,631	07/16/2003	Yariv Aridor	IL920030008US1	9678

7590 09/10/2007  
Stephen C. Kaufman  
Intellectual Property Law Dept.  
IBM Corporation  
P.O. Box 218  
Yorktown Heights, NY 10598

EXAMINER
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PRICE, NATHAN E

ART UNIT	PAPER NUMBER
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2194

MAIL DATE	DELIVERY MODE
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09/10/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/620,631

Applicant(s)

ARIDOR ET AL.

Examiner

Nathan Price

Art Unit

2194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
WILLIAM THOMSON  
SUPERVISORY PATENT EXAMINER

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This Office Action is in response to communications received 19 June 2007. Claims 1 – 25 are pending. Previous objections and rejections not included in this Office Action have been withdrawn.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 19 June 2007 has been entered.

#### ***Response to Arguments***

3. Applicant's arguments filed 03 January 2007 have been fully considered but they are not persuasive or are moot in view of the new ground(s) of rejection.
4. Regarding rejections under 35 U.S.C. 101, Applicant argues claims 22 and 23 now recite statutory subject matter. Examiner respectfully disagrees. Claims 22 and 23 appear to recite the data structure and objects as descriptive matter. See MPEP 2106.01.

5. See the new ground(s) of rejection regarding rejections under 35 U.S.C. 103 and for further explanation, including arguments not specifically addressed.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1 – 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. It is not clear what recited features are limitations that apply to the claimed subject matter. For example, claim 1 is directed towards "A management server to execute a computer-implemented framework for managing application complexes...". Claim 1 is directed towards the management server. The management server is not recited as comprising or executing the framework and application complexes. Therefore, the framework and application complexes do not appear to be recited as part of the management server. Since many of the limitations are directed towards the framework or other components that do not appear to be recited as part of the management server, it is not clear if the features limit the claimed subject matter (the management server).

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 22 and 23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 22 and 23 appear to recite the data structure and objects as descriptive matter. See MPEP 2106.01.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1 – 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlson (US 6,697,849 B1) in view of Choquier et al. (US Patent 5,951,694; hereinafter Choquier) and Watt (US 2003/0126202 A1).

10. As to claim 1, Carlson teaches a management server to execute a computer-implemented framework for managing application complexes, each application complex comprising multiple tiers of servers [Figs. 2 A - C], where servers in the same tier run an

identical application and the servers of the multiple tiers work together to provide a specific service, each of said application complexes being definable via a respective application-complex type [col. 4 lines 21 - 58; col. 2 lines 19 - 28; col. 3 lines 38 - 51; col. 9 lines 10 - 55], said framework comprising:

a plug-in interface adapted for connection to the framework of a plug-in in respect of an application-complex type, wherein said plug-in encapsulates a relationship between one or more resources composing the respective application complex type and respective characteristics of said resources [Fig. 4; col. 3 lines 38 - 51; col. 10 lines 7 - 32]; and

a user interface adapted to the application-complex type according to said plug-in wherein said user interface is responsive to user operations for interfacing with the framework for defining an application complex as an instance of the application-complex type [col. 2 lines 19- 34; col. 4 lines 21 -38; col. 13 lines 23-29].

The tiers correspond to clusters in a given tier [col. 1 lines 22 - 25; col. 3 lines 33 - 38] (and service groups in Choquier [col. 7 lines 44 - 52]). Although Carlson indicates that users can control the system it does not specifically state that a user populates the application complex with servers. However, Choquier teaches allowing the user to populate the application complex with servers using input to said framework via a console [col. 7 lines 44 - 62]. It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to combine these references because Carlson discloses adding servers to clusters [col. 4 lines 34 - 36] without providing details on how servers are added and Choquier discloses allocating additional servers

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to service groups [col. 7 lines 53 - 62]. It is also noted that Choquier teaches running the same service application on servers of a group [col. 7 lines 44 - 52].

Carlson does not specifically teach controlling and managing application complexes of different types as claimed. However, Watt teaches controlling and managing application complexes of different types [¶31, 108, 109]. It would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to combine these teachings because both teach managing server clusters.

As to claims 2 - 21, the combination of Carlson, Choquier and Watt (citations refer to Carlson unless otherwise indicated) teaches that:

[claim 2] the plug-in is adapted to convey to the framework information relating to the type of the application complex, the number of tiers, the application which the servers in each tier should run, and one or more properties of the application complex whose values can be specified by the user for each instance of the application complex type [Figs. 11 and 14; col. 15 lines 29 - 47]. For type of complex and number of tiers, Fig. 11 shows a server in a hierarchy, including identifiers that indicate types [col. 6 lines 32 - 33]. Since application servers are part of a tier in the system [Fig. 2 A- C] and are shown in the partial tree [col. 6 lines 32 - 33], it would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to include the tiers (where the servers are located) in the higher levels of the tree. By listing the elements of the system, including tiers, it shows how many tiers exist.

The combination of Carlson and Choquier also teaches that:

[claim 3] the plug-in is responsive to a change in one or more properties of the application complex for configuring at least one of said servers in accordance with said change [col. 4 lines 1 -38; col. 13 lines 23 -41];

[claim 4] the plug-in is adapted to convey to the framework information relating to one or more properties of the application complex whose values are to be monitored by the plug-in and the plug-in is adapted to monitor said properties and return their respective values or functions thereof to the framework [col. 11 lines 12 - 42; col. 12. lines 6 - 26];

[claims 5 and 6] the plug-in monitors said properties automatically or in response to a request by the framework [col. 7 lines 53 - 62];

[claims 7 and 8] the plug-in is responsive to a new server being added to (claim 7), or a server being removed from (claim 8), a tier in the application complex for automatically (re)configuring said server and any other servers in the application complex that relate to said server [Choquier: col. 7 lines 53 - 62; col. 11 line 58 - col. 12 line 7];

[claim 9] the plug-in is adapted to request the framework for a new server [col. 4 lines 33 - 38] [Choquier: col. 7 lines 53 - 62; col. 11 line 58 - col. 12 line 7];

[claim 10] the plug-in is adapted to request the framework to remove a server that belongs to the application complex [Choquier: col. 7 lines 53 - 62; col. 11 line 58 - col. 12 line 7];

[claim 11] the user interface is configured to allow a user to change one or more properties of any application complex instance created by the user [col. 12 lines 6 - 33] [Choquier: col. 7 lines 53 - 62];

[claim 12] the user interface is configured to display properties of any application complex instance created by the user and to allow one or more properties thereof to be changed [Fig. 14; col. 15 lines 29 - 36];

[claim 13] the user interface is a graphical user interface [Fig. 14];

[claim 14] the user interface is adapted to display current instances of application complexes and servers currently included in each tier thereof [Fig. 11; col. 13 lines 22 - 41; see also the rejection of claim 2];

[claims 15 and 16] the user interface is adapted to allow the user to move a server from a free pool of servers into (claim 15), or remove a server from (claim 16), a tier of an application complex instance, and the framework is responsive thereto for identifying the plug-in corresponding to said application complex instance for requesting said plug-in to reconfigure the server and any other servers in the application complex instance that relate to said server according to the properties of the application complex instance [col. 10 lines 7 -32; col. 12 lines 6- 26] [Choquier: col. 11 line 58 -col. 12 line 7; col. 23 lines 36 - 48];

[claim 17] the user interface is adapted to allow the user to move a server from a tier of a first application complex instance to a tier of a second application complex instance that is different from the first application complex instance, the respective tier in each of said instances having an identical class [Choquier: col. 7 lines 53 - 62; col. 9

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line 35 - col. 10 line 21; col. 23 lines 36 - 48], and the framework is responsive thereto for:

identifying the plug-in corresponding to said first application complex instance for requesting said plug-in to reconfigure the server and any other servers in the first application complex instance that relate to said server according to the properties of the first application complex instance, the plug-in being responsive to said server being removed from the tier in the first application complex for automatically configuring said server and any other servers in the first application complex that relate to said server [col. 10 lines 7 - 32] [Choquier: col. 11 line 58 - col. 12 line 7; col. 23 lines 36 - 48]; and

identifying the plug-in corresponding to said second application complex instance for requesting said plug-in to reconfigure the server and any other servers in the second application complex instance that relate to said server according to the properties of the second application complex instance, the plug-in being responsive to said server being added to a tier in the second application complex for automatically configuring said server and any other servers in the second application complex that relate to said server [col. 10 lines 7 - 32] [Choquier: col. 11 line 58 - col. 12 line 7; col. 23 lines 36 - 48].

[claim 18] the user interface is adapted to allow the user to move a server from a first tier of an application complex instance to a second tier thereof (Although moving between tiers in a single complex is not specifically stated, Carlson teaches that web servers can make use of local data or application servers [col. 7 line 60 - col. 8 line 7].

Therefore, depending on the requests being received [col. 7 lines 60 - 63], the load of the two tiers can vary and justify reallocating servers as taught by Choquier [col. 23 lines 36 - 48]), said first and second tiers having an identical class [Choquier: col. 9 line 35 - col. 10 line 21], and the framework is responsive thereto for:

identifying the plug-in corresponding to said application complex instance for requesting said plug-in to reconfigure the server and any other servers in the first tier and in the second tier of the application complex instance that relate to said server according to the properties of the application complex instance, the plug-in being responsive to said server being removed from the first tier and added to the second tier for automatically configuring said server and any other servers in the application complex that relate to said server [col. 10 lines 7 -32; col. 12 lines 6- 26] [Choquier: col. 7 lines 53 - 62; col. 9 line 35 - col. 10 line 21; col. 23 lines 36 - 48].

[claims 19 - 21] the user interface is adapted to display the monitored values for each of the monitored properties of any application complex instance created by the user and to interact with the plug-in corresponding to each application complex instance to receive the monitored values [col. 13 lines 22 -41] [Choquier: col. 24 lines 4- 12].

As to claims 22 – 25, see the rejection of claim 1. The disclosure of Carlson includes object-oriented programming [col. 8 lines 51 - 63].

### **Conclusion**

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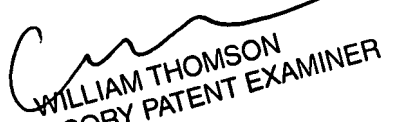
11. The prior art made of record on the P.T.O. 892 that has not been relied upon is considered pertinent to applicant's disclosure. Careful consideration of the cited art is required prior to responding to this Office Action, see 37 C.F.R. 1.111(c).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Price whose telephone number is (571) 272-4196. The examiner can normally be reached on 6:30am - 3:00pm, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Thomson can be reached on (571) 272-3718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NP

  
WILLIAM THOMSON  
SUPERVISORY PATENT EXAMINER